IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2218 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

and

Hon'ble MR.JUSTICE J.R.VORA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

JHAVRIBEN HADIYABHAI BHABHOR

Versus

MALIYA GALJI KHAPED

Appearance:

MR MUKESH R SHAH for Petitioner No. 1

Respondent No. 1-2 served

MR SHASHIKANT S GADE for Respondent No. 3

CORAM : MR.JUSTICE N.G.NANDI

and

MR.JUSTICE J.R.VORA

Date of decision: 03/04/2002

ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)

1. Vide order dated 21.1.2002, Notice for summary disposal was issued to the respondents. In response to which, Mr. Sashikant S. Gade, learned Advocate has appeared for respondent No.3 Insurance Company. Respondents No. 1 and 2 served.

2. This Appeal under Section 173 of the Motor Vehicles Act is directed against the award and judgment rendered in Motor Accident Claim Petition No.243/89 passed by the 2nd Extra Asst. Judge, Panchmahals at Godhra. The only grievance made in this Appeal is the rate of interest awarded at the rate of 12% from the date of the order on the amount of non-pecuniary loss i.e. Rs. 18,600/-.

3. It is submitted by Mr.R.N.Shah, learned advocate for the appellant that the rate of 12% interest should have been awarded from the date of the claim petition on the amount of Rs. 18,600/- i.e. on non-pecuniary loss.

4. It is stated by Mr. S.S. Gade, learned advocate appearing for the Insurance Company - Respondent No.3 that there is no objection in modifying the award to that effect and the rate of interest be awarded at 12% from the date of the claim petition on the non-pecuniary loss of Rs. 18,600/-.

5. In view of the above, the impugned award is modified to the effect that the appellant claim is entitled to get interest at the rate of 12% from the date of the claim petition the non-pecuniary loss of Rs. 18,600/- till the realisation of the amount.

6. The appeal is partly allowed to the extent pointed out above. No order as to costs.

(N.G. Nandi, J.)

(J.R. Vora, J.)

p.n.nair